

BEFORE THE  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT  
DECISION NO. 6607 AS A PRECEDENT  
DECISION PURSUANT TO SECTION  
409 OF THE UNEMPLOYMENT  
INSURANCE CODE.

In the Matter of:

BARBARA D. WILSON  
(Claimant-Respondent)

PRECEDENT  
BENEFIT DECISION  
No. P-B-257

FORMERLY BENEFIT DECISION No. 6607
--

S.S.A. No.

DOUGLAS AIRCRAFT COMPANY, INC.  
(Employer-Appellant)

Employer Account No.

STATEMENT OF FACTS

The employer has appealed from Referee's Decision No. LA-06388 which held that the claimant was not disqualified for benefits under section 1256 of the Unemployment Insurance Code and that the employer was not entitled to a ruling relieving its account of benefit charges.

The employer and the claimant's union have included in their collective bargaining agreement the following provisions relating to women employees who become pregnant:

"As a safeguard to health and in order to establish records necessary for the approval of resumption of employment after confinement, a woman employe who becomes pregnant must promptly report her condition to the Company Medical Department. Such employe shall not be permitted to remain at work for a period longer than that determined by the Company Medical Department to

be in the best interests of her health and safety and in no event, beyond the end of the fourth month of pregnancy.

"When it becomes necessary for a woman employe to discontinue her employment as herein provided, she may voluntarily terminate, or if she has been in the employ of the Company for at least one year, she may apply for formal leave of absence . . . ."

In accordance with the provisions of the collective bargaining agreement, the claimant notified the employer of her pregnancy and although ready, willing, and able to continue working beyond the fourth month of pregnancy, she was not permitted to do so by the employer. In order to avoid termination of her employment, she applied for and was granted a pregnancy leave of absence beginning April 8, 1960. She thereafter registered for work and established a claim for unemployment compensation benefits effective April 10, 1960.

The issues presented for decision are whether the claimant left her work voluntarily without good cause under section 1256 of the Unemployment Insurance Code and whether the employer is entitled to a ruling relieving its account of benefit charges under the provisions of sections 1030-1032 of the code.

#### REASONS FOR DECISION

Section 1256 of the Unemployment Insurance Code provides that an individual shall be disqualified for benefits if he has left his most recent work voluntarily without good cause. Section 1032 of the code provides that an employer's reserve account shall not be charged if it is ruled under section 1030 of the code that the claimant left her work voluntarily without good cause.

The precise factual situation and issues which are presently here under consideration were recently the subject of the decision of the District Court of Appeal in Douglas Aircraft Company, Inc. v. California Unemployment Insurance Appeals Board, et al. (1960), 180 ACA 664, 4 Cal. Rptr. 723 (hearing denied by California Supreme Court on June 29, 1960). The court held that

although the claimant involved in the decision was on a leave of absence, she had "left (her) most recent work," as that term is to be interpreted under sections 1256 and 1030 of the code, and that the employer, therefore, had a right to a ruling as to the claimant's eligibility for benefits and the chargeability of benefits to its account. The court further concluded, however, that the leaving of work was "involuntary" and that the claimant was, therefore, not disqualified for benefits under section 1256 of the code and that the account of the employer was subject to benefit charges.

In accordance with the decision of the appellate court, we hold that the employer herein is entitled to a ruling as to the claimant's entitlement to benefits and the chargeability of benefits to its account. In further accord with the decision of the court, it is held that the claimant left her most recent work with the employer herein "involuntarily"; that she is not disqualified for benefits under section 1256 of the code; and that the account of the employer is chargeable with benefits which may be paid to the claimant. To the extent that Benefit Decision No. 6464 and others hold that there is no leaving of work and that the employer is not entitled to a ruling, they are hereby overruled.

#### DECISION

The decision of the referee is modified. The claimant is not disqualified under section 1256 of the code and benefits are payable provided the claimant is otherwise eligible. The account of the employer is subject to benefit charges.

Sacramento, California, August 5, 1960.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ERNEST B. WEBB, Chairman

ARNOLD L. MORSE

WM. A. NEWSOM (Absent)

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6607 is hereby designated as Precedent Decision No. P-B-257.

Sacramento, California, March 9, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT